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8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2016-30

13 **MATTHEW DAVID SHEWMAKE**

DEFAULT DECISION AND ORDER

14 **13285 Owing Lane**

15 **Galt, CA 95632**

16 **Field Representative License No. FR 44103**

[Gov. Code, §11520]

17
18 Respondent.

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20 **FINDINGS OF FACT**

21 1. On or about December 11, 2015, Complainant Susan Saylor, in her official capacity
22 as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
23 Affairs, filed Accusation No. 2016-30 against Matthew David Shewmake (Respondent) before
24 the Structural Pest Control Board. (Accusation attached as Exhibit A.)

25 2. On or about March 5, 2009, the Structural Pest Control Board (Board) issued Field
26 Representative License No. FR 44103 to Respondent. The Field Representative License was in
27 full force and effect at all times relevant to the charges brought in Accusation No. 2016-30 and
28 will expire on June 30, 2017, unless renewed.

1 3. On or about December 18, 2015, Respondent was served by Certified and First Class
2 Mail, copies of the Accusation No. 2016-30, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
5 Code section 136, is required to be reported and maintained with the Board. Respondent's
6 address of record was and is:

7 13285 Owning Lane
8 Galt, CA 95632

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about December 24, 2015, the aforementioned documents served by Certified
13 Mail were returned by the U.S. Postal Service marked "Undeliverable As Addressed, Forwarding
14 Order Expired." The address on the documents was the same as the address on file with the
15 Board. Respondent failed to maintain an updated address with the Board and the Board has made
16 attempts to serve the Respondent at the address on file. Respondent has not made himself
17 available for service and therefore, has not availed himself of his right to file a notice of defense
18 and appear at hearing.

19 6. Government Code section 11506 states, in pertinent part:

20 (c) The respondent shall be entitled to a hearing on the merits if the respondent
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts
22 of the accusation not expressly admitted. Failure to file a notice of defense shall
23 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
24 may nevertheless grant a hearing.

25 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
26 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
27 2016-30.

28 8. California Government Code section 11520 states, in pertinent part:

 (a) If the respondent either fails to file a notice of defense or to appear at the
hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2016-30, finds that the charges and allegations in Accusation No. 2016-30, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$895.00 as of March 8, 2016.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Matthew David Shewmake has subjected his Field Representative License No. FR 44103 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Structural Pest Control Board is authorized to revoke Respondent's Field Representative License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

a. Under Business and Professions Code, section 8649, Respondent's license is subject to discipline for conviction of a crime in that on or about December 9, 2014, in the case of *People v. Matthew Shewmake* (San Joaquin County Superior Court case number SF129858A), Respondent was convicted by the Court on his plea of guilty of petty theft. The circumstances of the crime were that on or about September 21, 2014, Respondent willfully and unlawfully stole from a Target Department store, a backpack, flashlight, knives, and multi-tools totaling over \$300.

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ORDER

IT IS SO ORDERED that Field Representative License No. FR 44103, heretofore issued to Respondent Matthew David Shewmake, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 20, 2016.

It is so ORDERED April 20, 2016



FOR THE STRUCTURAL PEST CONTROL
BOARD, DEPARTMENT OF CONSUMER
AFFAIRS

12153508.DOC
DOJ Matter ID:SA2015104813

Attachment:
Exhibit A: Accusation